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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

WELLSFORD, INC.

Defendant.

Civil Action No. 05cv4158

A TRUE COPY CERTIFIED TO FROM THE RECORD

DATE: AUG 04 2005

ATTEST: _____

DEPUTY CLERK, UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

COMPLAINT

Plaintiff, the United States of America, by and through the undersigned attorneys, by authority of the Attorney General and at the request of the Administrator of the United States Environmental Protection Agency (hereinafter "EPA"), alleges as follows:

PRELIMINARY STATEMENT

1. This is a civil action initiated pursuant to Sections 107 and 113 of the Comprehensive Environmental Response, Compensation and Liability Act, ("CERCLA") 42 U.S.C. §§ 9607 and 9613, as amended, for reimbursement of response costs incurred by the United States in response to the release or threatened release of hazardous substances at the Recticon/Allied Steel Site in Parkerford, Pennsylvania ("the Site").

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Sections 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(b) and 28 U.S.C. §§

1331 and 1345.

3. Venue is proper in this judicial district pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b) and 28 U.S.C. § 1391(b) because the claims arose and the threatened and actual releases of hazardous substances occurred in this district.

DEFENDANT

4. Wellsford, Inc. ("Wellsford") is a corporation organized under the laws of the Commonwealth of Pennsylvania and at all relevant times was doing business in this judicial district.

GENERAL ALLEGATIONS

5. The Site consists of two properties, the Recticon and Allied Steel properties, located in Parkerford, an unincorporated village within East Coventry Township, Chester County, Pennsylvania.

6. The two properties occupy approximately 4.7 acres and lie across the street from each other on the approximate east and west corners of the intersection of Route 724 and Wells Road in Parkerford, Pennsylvania. (See Exhibit A).

7. Wellsford purchased the Recticon property, which constitutes approximately 1.8 acres of the Site, in July of 2001 and is the current owner of this portion of the Site.

8. In 1989, the Site was placed on the National Priorities List ("NPL") after the discovery that soils, sediments, and groundwater at the Site were contaminated by various metals, inorganic compounds, and volatile organic compounds ("VOCs"), including trichloroethene ("TCE") and cis-1,2-dichloroethene ("DCE").

9. Since the early to mid-1980s EPA has conducted various "response" activities,

as defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), in response to the release or threat of release of hazardous substances at the Site.

10. As a result of releases or threatened releases of hazardous substances into the environment at the Site, the United States has incurred response costs as defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), and authorized by Section 104 of CERCLA, 42 U.S.C. § 9604, to respond to the release or threatened release of hazardous substances at the Site.

11. The response costs were incurred by the United States in a manner not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300, promulgated under Section 105 of CERCLA, 42 U.S.C. § 9605.

12. As of January 2005, the United States had expended over \$767,000 in unreimbursed response costs to address the release and threat of release of hazardous substances at the Site.

CLAIM FOR RELIEF

13. The allegations of Paragraphs 1-12 are realleged and incorporated herein by reference.

14. The substances identified in Paragraph 8, as well as arsenic, beryllium, copper, and zinc are listed as hazardous substances at 40 C.F.R. Part 302, Table 302.4, and are, therefore “hazardous substances” as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

15. Defendant is a “person” within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601 (21).

16. The Site is a “facility” within the meaning of Section 101(9) of CERCLA, 42

U.S.C. § 9601(9).

17. There has been an actual release or threatened release of hazardous substances, as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), into the environment at and from the Site within the meaning of Sections 101(22) and 107(a) of CERCLA, 42 U.S.C. § 9601(22) and 9607(a).

18. The actions taken by the United States in connection with the Site constitute “response” actions within the meaning of Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

19. Defendant Wellsford is a current owner of the Site within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

20. Defendant Wellsford is liable for response costs incurred by the United States pursuant to Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

PRAYER FOR RELIEF

WHEREFORE, the United States prays that this Court:

1. Enter judgment in favor of the United States and against Wellsford for costs incurred by the United States for the previously identified response actions related to the Site, to the extent not otherwise reimbursed, including prejudgment interest;

2. Enter a declaratory judgment as to defendants’ liability that will be binding in future actions to recover further response costs connected with the cleanup and response actions at the Site;

3. Award the United States its costs of this action; and,

4. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated 8/3/05

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Recticon/Allied Steel Site Map

